

Environmental Protection Agency

§ 32.411

the specific reasons why relief should be granted.

(b) A review under this section shall be at the discretion of the OGD Director. If a review is granted, the debarring official may stay the effective date of a debarment order pending resolution of the appeal. If a debarment is stayed, the stay shall be automatically lifted if the OGD Director affirms the debarment.

(c) The review shall be based solely upon the record. The OGD Director may set aside a determination only if it is found to be arbitrary, capricious, and abuse of discretion, or based upon a clear error of law.

(d) The OGD Director's subsequent determination shall be in writing and mailed to all parties.

(e) A determination under § 32.314 or a review under this section shall not be subject to a dispute or a bid protest under parts 30, 31 or 33 of this subchapter.

[53 FR 19197, May 26, 1988, as amended at 59 FR 50693, Oct. 5, 1994; 62 FR 47149, Sept. 8, 1997]

Subpart D—Suspension

§ 32.400 General.

(a) The suspending official may suspend a person for any of the causes in § 32.405 using procedures established in §§ 32.410 through 32.413.

(b) Suspension is a serious action to be imposed only when:

(1) There exists adequate evidence of one or more of the causes set out in § 32.405, and

(2) Immediate action is necessary to protect the public interest.

(c) In assessing the adequacy of the evidence, the agency should consider how much information is available, how credible it is given the circumstances, whether or not important allegations are corroborated, and what inferences can reasonably be drawn as a result. This assessment should include an examination of basic documents such as grants, cooperative agreements, loan authorizations, and contracts.

§ 32.405 Causes for suspension.

(a) Suspension may be imposed in accordance with the provisions of §§ 32.400 through 32.413 upon adequate evidence:

(1) To suspect the commission of an offense listed in § 32.305(a); or

(2) That a cause for debarment under § 32.305 may exist.

(b) Indictment shall constitute adequate evidence for purposes of suspension actions.

§ 32.410 Procedures.

(a) *Investigation and referral.* Information concerning the existence of a cause for suspension from any source shall be promptly reported, investigated, and referred, when appropriate, to the suspending official for consideration. After consideration, the suspending official may issue a notice of suspension.

(b) *Decisionmaking process.* EPA shall process suspension actions as informally as practicable, consistent with principles of fundamental fairness, using the procedures in § 32.411 through § 32.413.

§ 32.411 Notice of suspension.

When a respondent is suspended, notice shall immediately be given:

(a) That suspension has been imposed;

(b) That the suspension is based on an indictment, conviction, or other adequate evidence that the respondent has committed irregularities seriously reflecting on the propriety of further Federal Government dealings with the respondent;

(c) Describing any such irregularities in terms sufficient to put the respondent on notice without disclosing the Federal Government's evidence;

(d) Of the cause(s) relied upon under § 32.405 for imposing suspension;

(e) That the suspension is for a temporary period pending the completion of an investigation or ensuing legal, debarment, or Program Fraud Civil Remedies Act proceedings;

(f) Of the provisions of § 32.411 through § 32.413 and any other EPA procedures, if applicable, governing suspension decisionmaking; and

(g) Of the effect of the suspension.